

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ROSEMARY GARITY,  
Plaintiff,

vs.

PATRICK DONAHOE,  
Defendant.

Case No. 2:11-cv-01805-RFB-CWH

**ORDER**

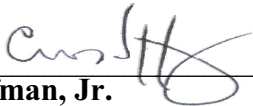
This matter is before the Court on Plaintiff's Motion to Compel (#199), filed September 2, 2014. Plaintiff requests an order requiring Defendant to immediately disclose the tests for the Rule 35 examination. She also requests an order compelling Defendant to set a date for the continuation of the Rule 30(b)(6) deposition. Plaintiff's requests are denied. Plaintiff is aware that both parties incorrectly implemented a stay of several orders, including the order to conduct a Rule 35 examination, on the belief that Plaintiff's objections resulted in an automatic stay. Recently, the Court ordered the parties to either submit an order regarding the Rule 35 examination or, if unable to agree, for Defendant to submit a proposed order. Because a proposed order has not been submitted, the Court finds that the request to compel is premature. Plaintiff is instructed to confer with opposing counsel regarding the scheduling of depositions. To the extent an agreement cannot be reached on the date for deposition, Plaintiff may bring a motion to compel the deposition pursuant to Fed. R. Civ. P. 37(d). Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Compel (#199) is **denied without prejudice**.

**IT IS FURTHER ORDERED** that the proposed order regarding Plaintiff's Rule 35

1 Examination shall be filed not later than Monday, September 8, 2014.

2 DATED: September 3, 2014.

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5 **C.W. Hoffman, Jr.**  
6 **United States Magistrate Judge**  
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